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Paper No. 11

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OFFICE OF PETITIONS

In re Application of
Houze, et al.
Application No. 09/768,831
Filed: January 24, 2001
Attorney Docket No. NOPH/100/JGK

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ON PETITION

This is a decision on the petition filed May 14, 2001 to accord a filing date of January 24, 2001.

The application was deposited on January 24, 2001. However, on March 12, 2001, the Office of Initial Patent Examination mailed a "Notice of Incomplete Application" requiring a specification and a newly executed oath/declaration covering the specification. The Notice stated that the filing date would be the date of receipt of the omitted specification.

In response, petitioner filed a paper entitled, "PETITION TO ACCEPT MISSING ITEMS IN RESPONSE TO NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION" and a copy of the specification with claims, abstract and drawings. The petition pointed to the fact that the application was a continuation of application no. 09/479,966 and the contents of application no. 09/479,966 was specifically incorporated by reference in the transmittal letter for the above-identified application, filed on January 24, 2001.

A review of the file confirms that the transmittal letter deposited on January 24, 2001, incorporated by reference the entire disclosure of prior application No. 09/479,966.

Based on petitioners' representation that the specification supplied on May 14, 2001, is a part of the disclosure of application No. 09/479,966 and the entire disclosure of application No. 09/479,966 was specifically incorporated by reference in the present application on January 24, 2001, it appears that the specification was present in the Office on January 24, 2001, albeit in the file of another application, i.e., application No. 09/479,966. Therefore, on petition, the application may be accorded the requested filing date.

The petition is granted.

However, the petition fee will not be refunded, since the petition was required to correct applicants' filing error and to accord the application the requested filing date.

Of course, the primary examiner is expected to compare the specification supplied on May 14, 2001, to the disclosure of prior application No. 09/479,966 in order to verify that the specification is, in fact, part of the disclosure of the prior

application.

The application is being returned to Initial Patent Examination Division for correction of the filing date to January 24, 2001.

Thereafter, the application will be forwarded to Technology Center 3700 for examination in due course, using the revised specification and drawings submitted on November 5, 2001.

Telephone inquiries specific to this matter should be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.



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for Patent Examination Policy